



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, Ca. 94105-3901

14 JAN 1994

CERTIFIED MAIL - See Attached List  
RETURN RECEIPT REQUESTED

To Addressees

Re: Order No. 94-08 pursuant to 42 U.S.C. Section 9606  
Tulare Pesticide, town of Waukena, Tulare County,  
California

Dear Addressees:

The enclosed Order is issued by the United States Environmental Protection Agency ("EPA"), pursuant to Section 106 of CERCLA, 42 U.S.C. Section 9606, to prevent or mitigate the immediate and significant risk of harm to the human health and environment. The Order requires you to take immediate action to contain and prevent the release or potential release of hazardous substances at the Tulare Pesticide site located in the town of Waukena, Tulare County, California ("the Site").

If EPA is unable to reach an agreement with you regarding your performance of the removal activities specified in the Order, EPA will conduct these removal actions itself and as a potentially responsible party ("PRP") you may be liable for all the Agency's incurred costs.

If you have any technical questions regarding the Order, please contact Dan Shane at (415) 744-2286. All legal questions may be directed to Matt Strassberg at (415) 744-1370.

Sincerely,

*Keith Takate*

to Jeff Zelikson, Director  
Hazardous Waste Management Division

enclosure:

cc: State of California, DTSC

The enclosed Unilateral Administrative Order has been delivered to the following addressees:

1. Mr. John F. Valov P 243 066 759  
12875 Road 28  
Tulare, California 93274
2. Mr. Andy Bill Shubin and P 243 066 758  
Mr. Mike Bill Shubin dba  
Thrifty Best Service  
19495 West Floral Avenue  
San Joaquin, California 93660



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, Ca. 94105-3901

IN THE MATTER OF: ) Order No. 94-08  
)  
Tulare Pesticide Site ) ADMINISTRATIVE ORDER  
) PURSUANT TO SECTION 106  
town of Waukena ) OF THE COMPREHENSIVE  
Tulare County, California ) ENVIRONMENTAL RESPONSE,  
) COMPENSATION, AND  
Andy Bill Shubin ) LIABILITY ACT OF 1980  
) as amended, 42 U.S.C.  
Mike Bill Shubin dba ) Section 9606(a)  
)  
Thrifty Best Service )  
19495 W. Floral Avenue )  
San Joaquin, CA 93660 )  
)  
John F. Valov )  
)  
Respondents )

PREAMBLE

1. This Administrative Order (Order) is issued on this date to the Respondents, pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 (CERCLA), delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, further delegated to the EPA Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and further redelegated to the Director, Hazardous Waste Management Division by Region IX Delegations 1290.41 and 1290.42.

UNILATERAL ADMINISTRATIVE ORDER

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PAGE 1

1           2. The State of California has been notified of the  
2 issuance of this Order as required by Section 106(a) of CERCLA,  
3 42 U.S.C. Section 9606(a).

4           3. This Order requires the Respondents to undertake  
5 and complete removal activities to abate an imminent and  
6 substantial endangerment to the public health and welfare or the  
7 environment that may be presented by the actual or threatened  
8 release of hazardous substances.

9                               FINDINGS OF FACT

10          Based on available information, including the Administrative  
11 record in this matter, U.S. EPA hereby finds:

12           4. Site Description/Location

13               The Tulare Pesticide site is located in the town  
14 of Waukena, Tulare County, California ("the Site"). This  
15 privately owned parcel of land and buildings thereon are the  
16 subject of this Administrative Order.

17               The Site is located on agricultural property owned  
18 by John F. Valov and is bounded on the west by Road 24, Avenue  
19 184 on the south, Road 28 on the east, and Highway 137 on the  
20 north. The Waukena Elementary School is situated approximately  
21 500 yards northeast of the Site.

22               The Site is situated on agricultural land which  
23 contains approximately 34 drums of soil contaminated with Dinoseb  
24 and other pesticides (10 cubic yards), 17 drums of Dinoseb  
25 contaminated wood, a one cubic yard pallet box of pesticide  
26 contaminated visqueen and soil and several bags of contaminated  
27 plastic equipment. The drums are located behind a fourteen foot  
28 tall chain-linked fence that is locked.

1           Although the Site is currently fenced, the warning  
2 signs have been removed. The Site is not patrolled regularly and  
3 children and other individuals could climb over the fence, open  
4 or damage the drums thereby becoming exposed to Dinoseb.

5           5. Respondents

6           Andy Bill Shubin and Mike Bill Shubin dba Thrifty  
7 Best Service which conducts waste cleaning services at 19495 W.  
8 Floral Avenue, San Joaquin, California.

9           John F. Valov has held title to the property  
10 located in the town of Waukena, Tulare County, California, since  
11 1954 and referred herein as the Site.

12           Andy Bill Shubin, Mike Bill Shubin, and John F.  
13 Valov are jointly referred to herein as Respondents.

14           6. Incident/Release Characteristics/ Prior Enforcement

15           On September 17, 1992, a California Highway Patrol  
16 Motor Carrier Specialist ("CHP") discovered an abandoned overseas  
17 shipping container at the Thrifty Best Service ("TBS") facility  
18 located in San Joaquin, Fresno County, California.

19           In a statement to the California Highway Patrol,  
20 facility owner, Andy Bill Shubin, indicated that the container  
21 contained extremely hazardous materials and wastes that were left  
22 by Schramm Ranch, the former property owner. On October 9, 1992,  
23 an inspector with the County Health Department reported that the  
24 container had been removed from TBS. Personnel from TBS stated  
25 that they had no knowledge of the containers whereabouts.

26           On October 20, 1992, the CHP discovered the  
27 container at the Valov Farm, owned by John F. Valov, in Waukena,  
28 Tulare County, California. The CHP reported a strong odor of

1 chemicals emanating from the container and liquid was leaking  
2 through the bottom of the doors.

3           On October 27, 1992, representatives from the  
4 Department of Toxic Substance Control ("DTSC") opened the  
5 overseas container. Their inspection revealed damaged and  
6 leaking pesticide containers and extensive contamination inside  
7 the container. In addition, soil beneath the container was  
8 visibly stained. An inventory of the container revealed various  
9 herbicides and insecticides including, Paraquat, Lindane, Vapam,  
10 Bidrin, Sevin, Eptam, and DEF. Moreover, many of the drums and  
11 some smaller containers were unlabelled and their contents  
12 unknown. Furthermore, a drum containing Dinoseb and a drum  
13 containing Toxaphene were found on two separate flatbed trailers  
14 near the overseas container. All uses of Dinoseb were cancelled  
15 by the U.S. EPA in 1986.

16           DTSC issued a cleanup order to Thrifty Best  
17 Service and John F. Valov on June 9, 1993. On June 15, 1993, a  
18 contractor hired by TBS (West Star Environmental Inc.) initiated  
19 a cleanup action at the Site. However, on June 16, 1993, the  
20 contractors terminated the cleanup due a failure of TBS to pay  
21 for contractor services. DTSC immediately requested their  
22 cleanup contractor, Kern Environmental Services, Inc. ("KES"), to  
23 continue removal actions at the Site.

24           KES transported approximately 70 drums and 7  
25 pallet boxes containing pesticides wastes to their facility in  
26 Bakersfield, California, for temporary storage. Subsequently,  
27 DTSC had the pesticides and wastes delivered to the U.S. Ecology  
28 facility in Beatty, Nevada, for long-term storage. At the

1 present time, DTSC is pursuing a judicial-enforcement action  
2 against the designated PRPs to compel them to pay for disposal  
3 costs.

4           Due to the threat of DTSC's enforcement action,  
5 TBS contracted with KES to complete the remaining cleanup  
6 activities at the Site. The remaining activities consisted of  
7 removing the contaminated wood flooring, decontaminating the  
8 overseas container, excavating and stockpiling the contaminated  
9 soil before removal to a Treatment, Storage and Disposal facility  
10 ("TSD"). Soil samples were taken from the soil stockpile and the  
11 lab results indicated that the soil was contaminated with 24,000  
12 Mg/Kg Dinoseb. KES estimated that transportation and disposal  
13 costs for the contaminated soil, wood, and debris to be \$56,000.  
14 According to DTSC, TBS stated an unwillingness to perform further  
15 cleanup activities. Repeated attempts by DTSC to contact TBS  
16 were unsuccessful.

17           On October 1, 1993, DTSC requested EPA's  
18 assistance to clean the remaining hazardous wastes at the Site.  
19 EPA's Federal On-Scene Coordinator ("FOSC"), Dan Shane, issued  
20 a verbal Notice of Federal Interest to TBS representative Charles  
21 Harrod. TBS was directed to immediately retain the services of  
22 an environmental contractor to complete the remaining removal  
23 actions at the Site. In addition, TBS was directed to submit a  
24 plan and schedule for the transportation and disposal of the  
25 contaminated soil, wood, and debris. TBS representative, Charles  
26 Harrod, agreed to comply with EPA's directive.

1                   On October 5, 1993, TBS's contractor, KES  
2 containerized all contaminated soil. EPA's Technical Assistance  
3 Team ("TAT") performed oversight functions during these cleanup-  
4 related activities. In addition, TAT collected soil samples in  
5 and around the excavation and stockpile areas to determine if the  
6 Dinoseb contamination remained. Dinoseb Field Test Kits were  
7 used to detect the presence of Dinoseb and the results were  
8 positive for the samples from the stockpile; all other sample  
9 test results from the area near the contaminated soil were  
10 negative. The Dinoseb Field Test Results were consistent with  
11 previous laboratory analytical results for samples taken from the  
12 area by KES.

13                   EPA never received the requested workplan and  
14 schedule for disposing of the hazardous materials.  
15 Accordingly, on November 17, 1993, EPA issued TBS, Andy Bill  
16 Shubin, and Mike Bill Shubin a Notice of Federal Interest. On  
17 November 22, 1993, Charles Harrod, representative for TBS,  
18 notified EPA by telephone that TBS would not assume  
19 responsibility for further removal actions at the Site. In a  
20 follow up letter, Mr. Harrod again stated his clients'  
21 unwillingness to undertake the removal action. In addition, on  
22 December 12, 1993, EPA issued a Notice of Federal Interest to  
23 John L. Valov. To date, EPA has not received a reply to its  
24 letter.

25                   7. Quantities and Types of Substances Present

26                   Presently, the Site consists of approximately 15  
27 cubic yards of Dinoseb-contaminated soil, wood, and debris  
28 contained in drums.



1  
2           8.   Threats to Public Health and Welfare

3                   Of major concern is Dinoseb, a dinitrophenol  
4 herbicide which is extremely toxic by dermal absorption and  
5 ingestion. Dinoseb is toxic to the liver, kidney, and central  
6 nervous system. EPA has determined that Dinoseb is a potential  
7 human development toxicant. Studies with laboratory animals  
8 suggest that Dinoseb has the potential to affect the  
9 immunological system. Environments that are hot may enhance the  
10 rate of absorption into the body. EPA has cancelled all known  
11 uses of Dinoseb. Soil samples taken by Kern Environmental  
12 Services ("KES") indicated that the stockpiled soil contained  
13 Dinoseb levels of 24,000 mg/kg.

14           9.   Threats to the Environment

15                   The primary threat is to the human health.  
16 However should the drums deteriorate and leak, their contents  
17 would be extremely toxic to the area's wildlife.

18                               CONCLUSIONS OF LAW

19           Based on the foregoing Findings, U.S. EPA has concluded  
20 that:

21                   10. The Tulare Pesticide site located in the town of  
22 Waukena, Tulare County, California, is a "facility" as defined by  
23 Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).

24                   11. Each named Respondent is a "person" as defined by  
25 Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

26                   12. Respondent John F. Valov is the current "owner" of  
27 the Site as defined by Section 101(20) of CERCLA, 42 U.S.C.  
28 Section 9601(20).

1           13. Respondent Andy Bill Shubin and Mike Bill Shubin  
2 dba Thrifty Best Service arranged for treatment or disposal of  
3 hazardous substances as defined by Section 107(a) of CERCLA, 42  
4 U.S.C. Section 9607(c)

5           14. Each Respondent is therefore a liable person under  
6 Section 107(a) of CERCLA, 42 U.S.C. Section 9607.

7           15. Dinoseb, a dinitrophenol herbicide is a  
8 "hazardous substance" as defined by Section 101(14) of CERCLA, 42  
9 U.S.C. Section 9601(14), and Section 302.4 of the National  
10 Contingency Plan (NCP), 40 CFR Part 300.

11           16. The presence of Dinoseb in the drums constitutes  
12 an actual or threatened "release" as that term is defined in  
13 Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).

14                           DETERMINATIONS

15           Based on the above Findings of Fact and Conclusions of Law,  
16 the Director, Hazardous Waste Management Division, EPA Region IX,  
17 has made the following determinations:

18           17. The actual or threatened release of hazardous  
19 substances from the Facility may present an imminent and  
20 substantial endangerment to the public health, welfare, or the  
21 environment.

22           18. The actions required by this Order, if properly  
23 performed, are consistent with the National Contingency Plan  
24 ("NCP"), 40 CFR Part 300 and CERCLA; and are appropriate to  
25 protect the public health, welfare, or the environment.

26           19. The conditions present at the Site constitute a  
27 threat to public health, welfare, or the environment based upon  
28 consideration of the factors set forth in the NCP at 40 CFR

1 Section 300.415(b). These factors include, but are not limited  
2 to, the following:

- 3 a. Actual or potential exposure to hazardous substances  
4 by nearby populations, animals, or food chain

5 At present the drums are illegally stored in an open field.  
6 Although access to the drums is restricted by the fence  
7 enclosure, the area is not adequately patrolled to ensure the  
8 integrity of the drums. There is a potential for the drums to  
9 deteriorate and leak. In addition, the debris and drums are an  
10 attractive nuisance for children. An act of vandalism could  
11 damage and disturb the contents of the drums thereby exposing  
12 unsuspecting individuals to extremely toxic chemicals.

- 13 b. Weather conditions that may cause hazardous substances  
14 to migrate or be released

15 Winter storms characterized by heavy rainfall and localized  
16 flooding have been reported in the area. The steel drums exposed  
17 to excessive water could begin to corrode and leak.

- 18 c. Release or threatened into the environment of a  
19 hazardous substances, or pollutants or contaminants

20 Dinoseb is a hazardous substance as defined by Section  
21 101(14) of CERCLA. Dinoseb wastes were generated as a result of  
22 a spill that occurred inside an abandoned overseas container and  
23 released into the environment.

- 24 d. The unavailability of other appropriate Federal or  
25 State response mechanisms to respond to the release

26 The State of California requested that EPA assume the lead  
27 for transportation and disposal activities at the Site as the  
28 estimated cost for transporting and disposing the hazardous

1 substances would exceed the State's "incident-specific" funding  
2 limit for cleanups under their Emergency Reserve Account. The  
3 State has already expended funds for completing one phase of the  
4 cleanup and is currently spending funds for the long-term storage  
5 of some of the drums at the U.S. Ecology facility in Beatty,  
6 Nevada.

7 ORDER

8 Based upon the foregoing Findings, Conclusions, and  
9 Determinations, and pursuant to Section 106(a) of CERCLA, 42  
10 U.S.C. Section 9606(a), it is hereby Ordered that the Respondents  
11 undertake the following actions under the direction of EPA's On-  
12 Scene Coordinator.

13 20. The effective date of this Order shall be the date  
14 of signature by the Director, Hazardous Waste Management  
15 Division.

16 21. Except where this Order specifically provides  
17 otherwise, its obligations shall be effective seven (7) calendar  
18 days following the effective date of this Order unless a  
19 conference is requested as provided below. If a conference is  
20 requested, this Order shall be effective on the third (3)  
21 calendar day following the day of the conference unless modified  
22 in writing by U.S. EPA.

23 22. Within forty eight (48) hours after the receipt of  
24 the Order, the Respondents shall provide notice, verbally or in  
25 writing, to U.S. EPA stating their intention to comply with the  
26 terms of this Order. Verbal notification must be followed in  
27 writing within five (5) calendar days after receipt of the Order.  
28 In the event any Respondent fails to provide such notice, that

1 Respondent shall be deemed not to have complied with the terms of  
2 this Order.

3 23. Upon receipt of this Order, the Respondents shall  
4 provide security at the Site which meets with EPA approval.

5 24. The Respondents shall immediately restrict access  
6 to the Site and shall not allow any materials, equipment, or any  
7 other item to be removed from the Site without prior EPA  
8 approval.

9 25. Within ten (10) calendar days after the effective  
10 date of this Order, the Respondents shall submit to U.S. EPA for  
11 approval, a Work Plan for the removal activities set forth in  
12 Paragraph 28 below. The Work Plan shall provide a concise  
13 description of the activities to be conducted to comply with the  
14 requirements of this Order, and shall include a proposed schedule  
15 for implementing and completing the activities. The Work Plan  
16 shall be reviewed by U.S. EPA, which may approve, disapprove,  
17 require revisions to, or modify the Work Plan.  
18 The Respondents shall implement the Work Plan as finally approved  
19 by U.S. EPA. Once approved, the Work Plan shall be deemed to be  
20 incorporated into and made a fully enforceable part of this  
21 Order.

22 26. The Work Plan shall contain a site safety and  
23 health plan, a transportation and disposal plan, and a schedule  
24 of the work to be performed. The site safety and health plan  
25 shall be prepared in accordance with EPA's Standard Operating  
26 Safety Guide, dated November, 1984, and updated July, 1988, and  
27 with the Occupational Safety and Health Administration (OSHA)  
28

1 regulations applicable to Hazardous Waste Operations and  
2 Emergency Response, 29 CFR Part 120.

3           27. The Respondents shall retain an environmental  
4 contractor qualified to undertake and complete the requirements  
5 of this Order, and shall notify U.S. EPA of the name of such  
6 contractor within five (5) days of the receipt of this Order.  
7 U.S. EPA retains the right to disapprove of any, or all, of the  
8 contractors and/or subcontractors retained by the Respondents.  
9 In the event U.S. EPA disapproves of a selected contractor, the  
10 Respondents shall retain a different contractor to perform the  
11 work, and such selection shall be made within two (2) business  
12 days following U.S. EPA's disapproval.

13           28. Within three (3) calendar days after U.S. EPA  
14 approval of the Work Plan, the Respondents shall commence  
15 implementation of the Work Plan as approved or modified by U.S.  
16 EPA. Failure of any Respondent to properly implement all  
17 aspects of the Work Plan shall be deemed to be a violation of the  
18 terms of this Order. The Work Plan shall require the Respondents  
19 to perform, and complete within thirty (30) calendar days after  
20 approval, at a minimum, the following removal activities:

- 21           a. Develop a Site Safety and Health Plan for on-site  
22               personnel.
- 23           b. Post signs indicating that the Site contains extremely  
24               hazardous materials and substances.
- 25           c. Obtain the service of a State-licensed hazardous waste  
26               hauler for transportation and disposal of waste  
27               material.

1  
2 d. Transport hazardous wastes to an EPA-approved TSD  
3 facility.

4 e. Submit copies of hazardous waste manifests to EPA.

5 29. The Respondents shall provide EPA with written  
6 weekly summary reports. These reports should contain a summary  
7 of the previous week's activities and up-coming activities.

8 30. Respondents shall inform EPA at least forty-eight  
9 (48) hours prior to commencement of on-Site work.

10 31. All sampling and analysis shall be consistent with  
11 the "Quality Assurance/Quality Control Guidance for Removal  
12 Activities": "Sampling QA/QC Plan and Data Validation  
13 Procedures," EPA OSWER Directive 9360.4-01, dated April, 1990.

14 32. Any hazardous substance, pollutant, or contaminant  
15 transferred off-Site as a result of this Order must be taken to  
16 facility acceptable under the EPA Off-Site Disposal Policy (OSWER  
17 Directive 9834.11, November 13, 1987) in accordance with CERCLA  
18 Section 121(d)(3), 42 U.S.C. §9621(d)(3).

19 33. With five (5) days of receipt of this Order, the  
20 Respondents shall designate a Project Coordinator. To the  
21 greatest extent possible, the Project Coordinator shall be  
22 present on site or readily available during site work. The U.S.  
23 EPA has designated Daniel Shane as its On-Scene Coordinator. The  
24 On-Scene Coordinator and the Project Coordinator shall be  
25 responsible for overseeing the implementation of this Order. To  
26 the maximum extent possible, communication between the  
27 Respondents and the U.S. EPA, and all documents, reports, and all  
28 other correspondence concerning the activities relevant to this

1 Order, shall be directed through the On-Scene Coordinator and the  
2 Project Coordinator. ...

3 34. The U.S. EPA and the Respondents shall each have  
4 the right to change their respective designated On-Scene  
5 Coordinator or Project Coordinator. U.S. EPA shall notify the  
6 Respondents, and Respondents shall notify U.S. EPA, as early as  
7 possible before such a change is made, but in no case less than  
8 24 hours before such a change. Notification may initially be  
9 verbal, but shall promptly be reduced to writing.

10 35. The U.S. EPA On-Scene Coordinator shall have the  
11 authority vested in an On-Scene Coordinator by the NCP, 40 CFR  
12 Part 300, as amended, including the authority to halt, conduct,  
13 or direct any work required by this Order, or to direct any other  
14 response action undertaken by U.S. EPA or the Respondents.

15 36. No extensions to the above time frames shall be  
16 granted without sufficient cause. All extensions must be  
17 requested in writing, and shall not be deemed accepted unless  
18 approved in writing, by U.S. EPA.

19 37. All instructions by the U.S. EPA On-Scene  
20 Coordinator or his designated alternate shall be binding upon the  
21 Respondents as long as those instructions are not clearly  
22 inconsistent with the National Contingency Plan.

23 38. To the extent that the Facility, or other areas  
24 where work under this Order is to be performed is owned by, or in  
25 possession of, someone other than the Respondents, the  
26 Respondents shall obtain all necessary access agreements. In  
27 the event that after using their best efforts any Respondent is  
28



1 | unable to obtain such agreements, the Respondent shall  
2 | immediately notify U.S. EPA.

3 |         39. The Respondents shall provide access to the Site  
4 | to U.S. EPA employees, contractors, agents, and consultants at  
5 | reasonable times, and shall permit such persons to be present and  
6 | move freely in the area in order to conduct inspections,  
7 | including taking photographs and videotapes of the Site, to do  
8 | cleanup/stabilization work, to take samples, to monitor the work  
9 | under this Order, and to conduct other activities which the U.S.  
10 | EPA determines to be necessary.

11 |         40. Nothing contained herein shall be construed to  
12 | prevent U.S. EPA from seeking legal or equitable relief to  
13 | enforce the terms of this Order, or from taking other legal or  
14 | equitable action as it deems appropriate and necessary, or from  
15 | requiring the Respondents in the future to perform additional  
16 | activities pursuant to CERCLA, 42 U.S.C. Section 9601, et seq.,  
17 | or any other applicable law.

18 |         41. The provisions of this Order and the directions of  
19 | the On-Scene Coordinator shall be binding on the employees,  
20 | agents, successors, and assigns of the Respondents.

21 |         42. The Respondents shall retain copies of all records  
22 | and files relating to hazardous substances found on the site for  
23 | six (6) years following completion of the activities required by  
24 | this Order and shall make them available to the U.S. EPA prior to  
25 | the termination of the removal activities under this Order.

26 |         43. The Respondents shall submit a final report  
27 | summarizing the actions taken to comply with this Order. The  
28 | report shall contain, at a minimum: identification of the

1 facility, a description of the locations and types of hazardous  
2 substances encountered at the facility upon the initiation of  
3 work performed under this Order, a chronology and description of  
4 the actions performed, a discussion of how all problems were  
5 resolved, a listing of quantities and types of materials removed  
6 from the facility, a discussion of removal and disposal options  
7 considered for any such materials, a listing of the ultimate  
8 destination of those materials, and a presentation of the  
9 analytical results of all sampling and analysis performed and  
10 accompanying appendices containing all relevant paperwork  
11 prepared during the action (e.g., manifests, invoices, bills,  
12 contracts, permits). The final report shall also include the  
13 total cleanup costs incurred for all removal activities and an  
14 affidavit from a person who supervised or directed the  
15 preparation of that report. The affidavit shall certify under  
16 penalty of law that based on personal knowledge and appropriate  
17 inquiries of all other persons involved in preparation of the  
18 report, the information submitted is true, accurate, and complete  
19 to the best of the affiant's knowledge and belief. The report  
20 shall be submitted within thirty (30) days of completion of the  
21 work required by this Order.

22           44. All notices, reports, and requests for extensions  
23 submitted under the terms of this Order shall be sent by  
24 certified mail, return receipt requested, and addressed to the  
25 following:  
26  
27  
28

1           one copy to: Daniel Shane  
2                           On-Scene Coordinator (H-8-3)  
3                           U.S. EPA  
4                           75 Hawthorne Street  
5                           San Francisco, CA 94105  
6                           (415) 744-2286

7           one copy to: Matt Strassberg  
8                           Assistant Regional Counsel (RC-3-1)  
9                           U.S. EPA  
10                          75 Hawthorne Street  
11                          San Francisco, CA 94105  
12                          (415) 744-1370

13           45. If any provision of this Order is deemed invalid  
14           or unenforceable, the balance of this Order shall remain in full  
15           force and effect.

16                           ACCESS TO ADMINISTRATIVE RECORD

17           46. The Administrative Record supporting the selection  
18           of the response action for this site is available for review on  
19           normal business days between the hours of 9:00 a.m. and 5:00 p.m.  
20           in the Office of Regional Counsel, United States Environmental  
21           Protection Agency, Region IX, 75 Hawthorne Street, 16th Floor,  
22           San Francisco, California. If additional information becomes  
23           available, EPA will revise the Administrative Record to reflect  
24           such material. To review the Administrative Record contact Matt  
25           Strassberg at (415) 744-1370. A draft Index to the  
26           Administrative Record is enclosed with the Order.

27                           OPPORTUNITY TO CONFER

28           47. With respect to the actions required above, the  
29           Respondents may within seven (7) calendar days after effective  
30           date of this Order, request a conference with the U.S. EPA. Any  
31           such conference shall be held within three (3) calendar days from  
32           the date of request unless extended by mutual agreement of the  
33           parties. At any conference held pursuant to the request, the

1 Respondents may appear in person, or by telephone, or be  
2 represented by an attorney or other representative. If any  
3 Respondent desires such a conference, the Respondent shall  
4 contact Matt Strassberg, Assistant Regional Counsel, at (415)  
5 744-1370.

6 48. If such a conference is held, the Respondents may  
7 present any evidence, arguments or comment regarding this Order,  
8 its applicability, any factual determinations upon which the  
9 Order is based, the appropriateness of any action which the  
10 Respondents are ordered to take, or any other relevant and  
11 material issue. Any such evidence, arguments or comments should  
12 be reduced to writing and submitted to U.S. EPA within three (3)  
13 calendar days following the conference. If no conference is  
14 requested, any such evidence, arguments or comments must be  
15 submitted in writing within three (3) calendar days following the  
16 effective date of this Order.

17 49. The Respondents are hereby notified that U.S. EPA  
18 will take any action which may be necessary in the determination  
19 of U.S. EPA for the protection of public health and welfare and  
20 the environment, and Respondents may be liable under Section  
21 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for all past and  
22 future costs of these government actions.

23 PENALTIES FOR NONCOMPLIANCE

24 50. The Respondents are advised pursuant to Section  
25 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful  
26 violation or subsequent failure or refusal to comply with this  
27 Order, or any portion thereof, may subject each noncomplying  
28 Respondents to a civil penalty of up to \$25,000 per day for each

1 day in which such violation occurs, or such failure to comply  
2 continues. Failure to comply with this Order, or any portion  
3 thereof, without sufficient cause may also subject the  
4 Respondents to liability for punitive damages in an amount three  
5 times the amount of any cost incurred by the government as a  
6 result of the failure of the Respondents to take proper action,  
7 pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section  
8 9607(c)(3).

#### 9 COMPLIANCE WITH OTHER LAWS

10 51. The Respondents shall comply with all applicable  
11 federal, state, and local laws and regulations in carrying out  
12 the terms of this Order. As indicated above, all hazardous  
13 substances removed from the Site must be handled in accordance  
14 with the Resource Conservation and Recovery Act of 1976, 42  
15 U.S.C. Section 6921, et seq., the regulations promulgated under  
16 that Act, and Section 121(d)(3) of CERCLA, 42 U.S.C. Section  
17 9621(d)(3).

#### 18 ENDANGERMENT DURING IMPLEMENTATION

19 52. The Director, Hazardous Waste Management Division,  
20 EPA Region IX, may determine that acts or circumstances (whether  
21 related to or unrelated to this Order) may endanger human health,  
22 welfare, or the environment, and as a result of this  
23 determination, may order the Respondents to stop further  
24 implementation of this Order until the endangerment is abated.

#### 25 GOVERNMENT NOT LIABLE

26 53. The United States Government and its employees and  
27 other representatives shall not be liable for any injuries or  
28 damages to persons or property resulting from the acts or

1 omissions of the Respondents, their employees, contractors, or  
2 other representatives caused by carrying out this Order. The  
3 United States Government is not a party to any contract with the  
4 Respondents.

5 THIS ORDER IS ISSUED on this 14<sup>th</sup> day of January, 1994.  
6 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

7 By: Keith Takaki  
8 Jeff Zelikson, Director  
9 ~~for~~ Hazardous Waste Management Division  
United States Environmental Protection Agency  
Region IX  
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1       Contacts:

2       Daniel Shane  
3       On Scene Coordinator  
4       Emergency Response Section (H-8-3)  
5       United States Environmental Protection Agency  
6       75 Hawthorne Street  
7       San Francisco, CA 94105  
8       (415) 744-2286

9       John P. Jaros  
10      Enforcement Officer  
11      Removal Response Section (H-8-4)  
12      United States Environmental Protection Agency  
13      75 Hawthorne Street  
14      San Francisco, CA 94105  
15      (415) 744-2298

16      Matt Strassberg  
17      Assistant Regional Counsel (RC-3-1)  
18      Office of Regional Counsel  
19      United States Environmental Protection Agency  
20      75 Hawthorne Street  
21      San Francisco, CA 94105  
22      (415) 744-1370

TULARE PESTICIDES  
Superfund Removal Site  
Waukena, California  
ADMINISTRATIVE RECORD INDEX

DATE yy/mm/dd	AR #	AUTHOR	ADDRESSEE	SUBJECT
93/06/09	AR 1	Stan Phillipe CA Environmental Protection Agency - Dept of Toxic Substances Control	Andy Shubin, Bill Shubin Thrifty Best Pumping Service	Imminent &/or substantial endangerment determination & order, docket #I&/SE- 92/93-018 w/TL to R Martyn fr A Sargent & w/o exhibits 1 - 2 (faxed)
93/06/17	AR 2	Ensco Environmental Services		Waste inventory (handwritten)
93/09/22	AR 3	D Schultz, et al BC Laboratories	Charles Heard Kern Environmental Service	Sampling & analysis data & chain of custory record, 9/3/93 - 9/22/93
93/09/22	AR 4	D Schultz, Stuart Putnam BC Laboratories	Charles Heard Kern Environmental Service	Sampling & analysis data, 9/8/93 - 9/22/93
93/09/22	AR 5	D Schultz, Stuart Putnam BC Laboratories	Charles Heard Kern Environmental Service	Sampling & analysis data & drum inventory, 9/8/93 - 9/22/93
93/12/07	AR 6	Victoria Radvila Ecology & Environment, Inc	Environmental Protection Agency - Region 9	Technical assistance team (TAT) rpt, responsible party oversight, TAT #T099312-T-007, TDD #T099310-0011, PAN #ECA1932-MAA
93/12/14	AR 7	Dan Shane Environmental Protection Agency - Region 9	Jeff Zelikson Environmental Protection Agency - Region 9	Action memo: Request for removal action w/o enforcement addendum (redacted - FOIA ex 7)
94/01/11	AR 8	Sandy Farber Environmental Protection Agency - Region 9	File	Memo: Other documents considered or relied upon for administrative record (AR)
94/01/11	AR 9	Environmental Protection Agency - Region 9		List of US EPA guidance documents consulted during development & selection of response action for site

No. of Records: 9  
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